

**LODI CITY COUNCIL  
REGULAR CITY COUNCIL MEETING  
CARNEGIE FORUM, 305 WEST PINE STREET  
WEDNESDAY, OCTOBER 20, 2004**

**C-1     CALL TO ORDER / ROLL CALL**

The City Council Closed Session meeting of October 20, 2004, was called to order by Mayor Hansen at 5:32 p.m.

Present: Council Members – Beckman, Hitchcock, Howard, Land, and Mayor Hansen

Absent: Council Members – None

Also Present: Interim City Manager Keeter, City Attorney Schwabauer, and City Clerk Blackston

**C-2     ANNOUNCEMENT OF CLOSED SESSION**

- a) Actual litigation: Government Code §54956.9(a); one case; People of the State of California; and the City of Lodi, California v. M & P Investments, et al.; United States District Court, Eastern District of California, Case No. CIV-S-00-2441 FCD JFM
- b) Actual litigation: Government Code §54956.9(a); one case; Hartford Accident and Indemnity Company, et al. v. City of Lodi, et al., Superior Court, County of San Francisco, Case No. 323658
- c) Conference with legal counsel – initiation of litigation: Government Code §54956.9(c); two cases
- d) Conference with legal counsel – anticipated litigation – significant exposure to litigation pursuant to subdivision (b) of Section 54956.9; one case; pursuant to Government Code §54956.9(b)(3)(A) facts, due to not being known to potential plaintiffs, shall not be disclosed
- e) Actual litigation: Government Code §54956.9(a); one case; City of Lodi, a California Municipal Corporation, and Lodi Financing Corporation, a California nonprofit corporation v. Lehman Brothers, Inc. and US Bank National Association, United States District Court, Eastern District of California, Case No. CIV. S-04-0606 MCE-KJM
- f) Actual litigation: Government Code §54956.9(a); one case; Lehman Brothers Inc., v. City of Lodi and Lodi Financing Corporation, United States District Court, Eastern District of California Case No. CIV-S-04-0850 FCD/JFM
- g) Actual litigation: Government Code §54956.9(a); one case; Fireman's Fund Insurance Company v. City of Lodi, et al., United States District Court, Eastern District of California Case No. CIV-S-98-1489 FCD JFM
- h) Actual Litigation: Government Code §54956.9(a); one case; City of Lodi v. City of Stockton, et al., San Joaquin County Superior Court, Stockton Branch, Case No. CV024720
- i) Actual Litigation: Government Code §54956.9(a); one case; City of Stockton v. City of Lodi, San Joaquin County Superior Court, Stockton Branch, Case No. CV024859
- j) Actual Litigation: Government Code §54956.9(a); one case; Stockton Family Farmers Coalition v. City of Lodi, et al., San Joaquin County Superior Court, Stockton Branch, Case No. CV024860

**C-3     ADJOURN TO CLOSED SESSION**

At 5:32 p.m., Mayor Hansen adjourned the meeting to a Closed Session to discuss the above matters.

The Closed Session adjourned at 7:10 p.m.

**C-4     RETURN TO OPEN SESSION / DISCLOSURE OF ACTION**

At 7:18 p.m., Mayor Hansen reconvened the City Council meeting, and City Attorney Schwabauer disclosed the following actions.

In regard to Items C-2 (a) and (f), negotiating authority was sought and given.

In regard to Items C-2 (b), (c), (d), (e), (g), (h), (i), and (j), no reportable action was taken in Closed Session.

A. CALL TO ORDER / ROLL CALL

The Regular City Council meeting of October 20, 2004, was called to order by Mayor Hansen at 7:10 p.m.

Present: Council Members – Beckman, Hitchcock, Howard, Land, and Mayor Hansen

Absent: Council Members – None

Also Present: Interim City Manager Keeter, City Attorney Schwabauer, and City Clerk Blackston

B. INVOCATION

The invocation was given by Pastor Matt Duerr, Zion Reformed Church.

C. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Hansen.

D. AWARDS / PROCLAMATIONS / PRESENTATIONS

D-1 Awards – None

D-2 Proclamations – None

D-3 (a) Fire Chief Pretz and Mayor Hansen presented Certificates of Recognition to Firefighter Jeremy Quaglia, Captain Pete Iturraran, Acting Captain Aimee Dalrymple, and Engineer Rick Gerlack for life-saving actions.

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E. CONSENT CALENDAR

In accordance with the report and recommendation of the City Manager, Council, on motion of Council Member Land, Beckman second, unanimously approved the following items hereinafter set forth **except those otherwise noted:**

E-1 Claims were approved in the amount of \$4,553,952.86.

E-2 The minutes of September 14, 2004 (Shirtsleeve Session), September 14, 2004 (Special Meeting), September 15, 2004 (Regular Meeting), September 28, 2004 (Shirtsleeve Session), September 28, 2004 (Special Meeting), October 5, 2004 (Shirtsleeve Session), and October 11, 2004 (Special Meeting) were approved as written.

E-3 Adopted Resolution No. 2004-211 approving the plans and specifications for White Slough Water Pollution Control Facility Standby Power Improvements and authorizing City Manager to solicit bids for equipment, negotiate a Contract Change Order for installation of equipment not to exceed a total of \$1,000,000, and appropriate funds as recommended by staff.

E-4 "Adopt resolution approving plans and specifications, authorizing advertisement for bids for Lighted Crosswalk System Project at Lockeford Street and Calaveras Street, and authorizing the City Manager to execute all necessary agreements to implement the project, award or reject the contract up to \$29,000, and appropriate funds" was **removed from the Consent Calendar and discussed and acted upon following approval of the Consent Calendar.**

E-5 Adopted Resolution No. 2004-212 approving the specifications, authorizing advertisement for bids, and further authorizing the City Manager to award or reject all bids for the purchase of high-density polyethylene electric utility service boxes up to \$11,000.

E-6 Adopted Resolution No. 2004-213 accepting the improvements in Almond North, Tract No. 3396, including the traffic signage at Ravenwood Way and Cherrywood Way traffic circle.

- E-7 Adopted Resolution No. 2004-214 accepting \$100,000 from the State Citizens Option for Public Safety Grant offered through AB 1584 State Supplemental Law Enforcement Service Fund.
- E-8 Adopted Resolution No. 2004-215 of Preliminary Determination and Resolution No. 2004-216 of Intention to Annex Woodlake Meadow Zone 7 to Lodi Consolidated Landscape Maintenance District No. 2003-1; set public hearing and deadline for receipt of ballots for December 15, 2004; adopted Resolution No. 2004-217 authorizing the City Manager to execute professional services agreement task order with Timothy J. Hachman, Attorney at Law, in the amount of \$6,500 for services required in support of the annexation; and adopted Resolution No. 2004-218 authorizing the City Manager to execute professional services agreement task order with Thompson-Hysell Engineers, a Division of The Keith Companies, Inc., in the amount of \$6,000 for services required in support of the annexation.

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ACTION ON ITEM REMOVED FROM THE CONSENT CALENDAR

- E-4 "Adopt resolution approving plans and specifications, authorizing advertisement for bids for Lighted Crosswalk System Project at Lockeford Street and Calaveras Street, and authorizing the City Manager to execute all necessary agreements to implement the project, award or reject the contract up to \$29,000, and appropriate funds"

Council Member Hitchcock voiced concern regarding setting a precedence and noted that studies have not yet concluded on the effectiveness of lighted crosswalks.

Public Works Director Prima pointed out that lighted crosswalks are less expensive than traffic signals, which cost over \$200,000.

City Attorney Schwabauer stated that additional exposure to liability would not be focused as much on whether there is a lighted crosswalk in the community, as to whether it is reasonable technology to enhance safety.

Mayor Pro Tempore Beckman agreed with Ms. Hitchcock's comments and believed that the matter should be studied further and criteria established for lighted crosswalks.

MOTION:

Council Member Land made a motion, Hansen second, to adopt Resolution No. 2004-219 approving the plans and specifications, authorizing advertisement for bids for the Lighted Crosswalk System Project at Lockeford Street and Calaveras Street, and authorizing the City Manager to execute all necessary agreements to implement the project, award or reject the contract up to \$29,000, and appropriate funds.

DISCUSSION:

Mayor Hansen recommended that staff pursue grant funds for future lighted crosswalk requests.

Council Member Hitchcock favored having parameters and guidelines for which lighted crosswalks are established.

In reply to Council Member Howard, Mr. Prima stated that staff could ask Lodi Unified School District if it was interested in participating in the cost.

In response to Mayor Pro Tempore Beckman, Mr. Prima reported that the crosswalk was selected after reviewing the grant criteria that was specifically tied to school crossings. Staff did not do an exhaustive analysis of all intersections in the City.

VOTE:

The above motion carried by the following vote:

Ayes: Council Members – Howard, Land, and Mayor Hansen  
Noes: Council Members – Beckman and Hitchcock  
Absent: Council Members – None

Mayor Hansen asked staff to develop a policy and explore additional funding for lighted crosswalk systems.

F. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS

- Sherry Sanchez stated that her 13 year old daughter is a student at Lodi Middle School. Ms. Sanchez reported that during one week two female students had been "flushed" and coaxed to come up to a vehicle. A letter was sent to parents stating that security had been increased in the neighborhood; however, Ms. Sanchez did not believe it had taken place as she had never seen a police officer in front of the school.

Mayor Hansen asked Interim City Manager Keeter to relay Ms. Sanchez' concerns to the Chief of Police and the Patrol Division Commander and ask that they speak with the school resource officer.

G. PUBLIC HEARINGS

- G-1 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Hansen called for the public hearing to consider adopting resolution establishing area of benefit and reimbursable costs for Kettleman Lane Improvements.

Lyman Chang, Associate Civil Engineer, reported that part of the Kettleman Lane gap closure project includes installation of frontage improvements (curb, gutter, sidewalk, and pavement) along the north side of Kettleman Lane from Lakeshore Drive to Tienda Drive. Pursuant to Lodi Municipal Code (LMC) 16.40.030, the costs of improvements installed by the City that benefit adjacent properties, and would be required of the properties upon development, are reimbursable to the City. The reimbursable costs for each of the benefiting properties have been calculated based on the length of the frontage of each parcel. Mr. Chang noted that reimbursable amounts are estimates only and will be adjusted upon the completion and acceptance of the Kettleman Lane Improvement Project. The reimbursement costs will be due at the time of development of the respective parcels. Pursuant to LMC 15.64.080, the reimbursable amount will be adjusted annually to include an amount attributable to interest, which will be based on the change in the Engineering News Record Construction Cost Index.

In response to Council inquiries, Mr. Chang stated that 11 street lights are included in the project. He reported that the estimated date for completion is early spring 2005.

Hearing Opened to the Public

None.

Public Portion of Hearing Closed

MOTION / VOTE:

The City Council, on motion of Mayor Pro Tempore Beckman, Hitchcock second, unanimously adopted Resolution No. 2004-220 establishing an area of benefit and reimbursable costs for Kettleman Lane Improvements fronting the parcels located on Kettleman Lane

- G-2 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Hansen called for the public hearing to consider adopting resolution approving fare increases for GrapeLine fixed route and Dial-A-Ride services.

Tiffani Fink, Transportation Manager, reminded Council that this matter had been introduced at the meeting of October 6. She reported that transit has seen an increase in operational costs. The increase in administrative costs is due to the addition of the transit station and costs of maintaining the buildings. Fare recovery in 1996-97 was 10%, in 1998-99 it was close to 15%, and in 2003-04 it was 11%. Fares have not been increased since the fixed route was created in 1994. Fare recovery for Dial-A-Ride services in

1996-97 was 12% and has continued to decline to the current level of less than 8%. Dial-A-Ride operating cost per passenger is \$17 an hour. Ms. Fink reported that Lodi's urban area was expanded to include more of Woodbridge, Bear Creek Road, and north on the Highway 99 corridor into the city of Galt. Staff is not proposing to serve any areas north of the county line. Ms. Fink reviewed the existing and proposed fares for fixed route and Dial-A-Ride.

In reply to Mayor Hansen, Ms. Fink confirmed that the City should be able to accommodate the new urban areas with the current Dial-A-Ride system.

Mayor Hansen and Council Member Hitchcock asked whether the City was mandated to offer services to the expanded urban area, to which Public Works Director Prima replied that he would research the matter and provide an answer to Council at a later time.

Ms. Fink reported that a 97% on-time rate (within 45 minutes) has been achieved, with an average response time of 22 minutes. Ms. Fink stated that at the first public meeting on this subject there were five people in attendance, a few of whom voiced concern about the increase in the Senior/Disabled/Medicare fare. At the second public meeting, ten people attended and there were only a few concerns expressed.

In response to Council Member Hitchcock, Ms. Fink stated that, according to her projections, she felt comfortable that with the proposed rate increases the City would be able to cover operating costs and make some needed capital purchases. In reference to previous transfers, Mr. Prima acknowledged that some of the money came from the General Fund Capital Account and it was not planned to pay it back.

Mr. Prima outlined the following fare options:

- Dial-A-Ride multi-ride ticket discount (10 tickets for the price of 8);
- Children accompanying an adult on Dial-A-Ride, charged at same rate as adult;
- Student fare for fixed route 75 cents;
- Authorize City Manager to execute contract pricing with non-profit organizations who administer transit grant programs at a rate reduction not to exceed 50%.

Mr. Prima reported that the Chamber of Commerce Leadership Lodi Program's annual project is to provide bus passes for teenagers to get to the 180 Teen Center, the Boys & Girls Club, and the Library.

#### Hearing Opened to the Public

- Sheryl Marquardt stated that she was representing Arbor Mobile Home Park and her church. She was opposed to the Dial-A-Ride fare increase from \$1 to \$1.50 and suggested a 20% increase instead.

In answer to a question posed by Ms. Marquardt, Ms. Fink stated that attendants to the disabled ride for free, regardless of their age.

- Christina Baldonado stated that she depends on Dial-A-Ride to get to and from work and felt that the fare increase for the general public was too high.
- John Donovan asked how much money is spent on public transportation, as compared to street maintenance. He also felt that automobile drivers should subsidize public transportation.

Mr. Prima replied that the transit operation costs approximately \$2.5 million per year, which is close to what the total budget is for street maintenance done by the City. Capital projects done by outside contractors is an additional cost and varies upon the projects. In reference to subsidies, Mayor Hansen pointed out that taxpayers, including automobile drivers, do subsidize public transportation.

- Ed Beswick stated that he manages a 42-unit apartment complex, in which 70% of the residents are over 65 years and 25% use Dial-A-Ride. He stated that often times residents call in a reservation in advance and later forget that they had done so, which slows down the system by making drivers wait. Mr. Beswick was pleased that the service area for Dial-A-Ride was expanding.
- Brad VanderHamm, representing Leadership Lodi, spoke in support of the option to allow discounted contract pricing for non-profit organizations.

Public Portion of Hearing Closed

MOTION #1 / VOTE:

The City Council, on motion of Council Member Hitchcock, Beckman second, adopted Resolution No. 2004-221 approving the following fare increases for GrapeLine fixed route and Dial-A-Ride services:

FIXED ROUTE

General Public	\$1.00
Senior (60+)/Disabled/Medicare	\$ .50
Transfers	Free
Children Under 5	2 Free Per Paying Passenger
31 Day Pass (General Public)	Eliminate Pass
31 Day Pass (Senior/Disabled/Medicare)	Eliminate Pass
Monthly Pass (Good only in month issued)	
(General Public)	\$35.00
(Senior/Disabled/Medicare)	\$17.50

DIAL-A-RIDE

General Public	\$5.00
Senior/Disabled/Medicare	\$1.50
Surcharge for area outside City limits but within the San Joaquin County portion of the Lodi Urbanized Area (in addition to applicable fare)	\$1.00

The motion carried by the following vote:

Ayes: Council Members – Beckman, Hitchcock, and Howard

Noes: Council Members – Land and Mayor Hansen

Absent: Council Members – None

MOTION #2 / VOTE:

The City Council, on motion of Council Member Hitchcock, Hansen second, unanimously adopted Resolution No. 2004-222 approving the Dial-A-Ride multi-ride ticket discount (for a 10-ride ticket, buy 8 rides and get 2 rides free).

MOTION #3:

Mayor Hansen made a motion, Beckman second, to authorize the City Manager to execute contract pricing with Leadership Lodi at a rate reduction not to exceed 50% and that any additional contract pricing agreements with a non-profit organization who administers transit grant programs be conditioned upon the approval of Council.

PUBLIC COMMENT:

- Brad VanderHamm reported that Leadership Lodi has raised nearly \$8,000 to subsidize bus passes for teenagers; however, when the funding is exhausted the program will end.

VOTE:

The above motion carried by a unanimous vote.

RECESS

At 9:15 p.m., Mayor Hansen called for a recess, and the City Council meeting reconvened at 9:29 p.m.

G. PUBLIC HEARINGS (Continued)

- G-3 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Hansen called for the public hearing to consider Planning Commission's recommendation to certify the Environmental Impact Report and approve the 2003-09 Housing Element.

Community Development Director Bartlam recalled that the Housing Element update process began two years ago following adoption of the county's regional housing needs allocation. The firm of Cotton Bridges Associates was retained to assist staff in the process of developing the Housing Element and Environmental Impact Report (EIR). In March 2003, the Planning Commission held a workshop to get public input on the community's perspective of need. A Shirtsleeve Session was held before the City Council. In November 2003, the EIR and Housing Element were released for public comment. The draft Housing Element was submitted to the State Housing Community Development Department for its review. The Planning Commission held a public hearing last month to consider the document now before Council. The EIR is a program document that outlines the general impacts associated with the development of the Housing Element.

Jeff Goldman, from Cotton Bridges and Associates, reviewed the general contents of the Housing Element and stated that a key part of the document is how the City intends to meet its share of San Joaquin County's future housing needs. The Regional Housing Plan prepared by the San Joaquin Council of Governments assigned 4,014 units between 2001-2009 as Lodi's share of the countywide new housing construction need. Of that share, over 1,600 units should be affordable to low- and very-low-income households, i.e. earning 80% or less of the median income. The Housing Element has shown to the State's satisfaction that Lodi has adequate sites to accommodate the units. The City does not have to guarantee that the units will be built, its only responsibility is to provide adequate sites and, within its limited resources, try to facilitate the construction of housing.

In answer to Mayor Hansen, Mr. Goldman explained that the accepted definition of affordability is that housing costs should not exceed approximately 30% of household income. He acknowledged that virtually the only way very-low- and low-income housing could be built in Lodi today is through some kind of subsidy. He offered the following suggestions to facilitate the construction of affordable housing:

- Set up a mechanism such as a redevelopment agency that generates tax revenue that can be set aside specifically for affordable housing programs;
- Look at the regulatory process to see if there are ways to reduce the cost of the development process through expediting certain functions, reducing fees, and/or relaxing regulations;
- Use staff resources to help builders who specialize in affordable housing access state or federal funds; and
- Adopt a mandatory process such as requiring that a certain percentage of new housing units have to be affordable to targeted income groups, i.e. "inclusionary zoning".

In reply to Council Member Hitchcock, Mr. Goldman explained that very-low- and low-income numbers represent about 40% of the total need. He reported that even the most successful and aggressive communities in California only get 10% to 15% of the units built to be affordable to the low- or very-low-income range.

Council Member Land noted that there are grants available through the Federal Home Loan Bank for affordable housing projects. Financial institutions will cut costs for construction and interest to get affordable housing in order to meet their Community Reinvestment Act responsibilities. He suggested that an Ad Hoc or Mayor's Committee be formed to study issues of affordable housing and make recommendations to the Council.

Mr. Goldman reported that Lodi's Housing Element objectives included:

- A construction objective that recognizes how many market rate and affordable units are likely to be built within the resources that the City could tap into;
- Home buyers assistance; and
- Housing rehabilitation based on the City's history of code enforcement.

Mr. Goldman noted that 40 subsidized rental housing units were identified that may be at risk of being lost as affordable units, either because the subsidy or the rent restrictions would be expiring during the term of the Housing Element. It was also recognized that mobile homes are an affordable housing resource in the community.

In response to Mayor Pro Tempore Beckman, Mr. Bartlam explained that in high-density areas 20.1 units or more per acre must be developed, medium density is at least 7.1 units per acre, and low density starts at zero. In a medium-density designation, a single-family detached unit, apartment, or condominium up to 20 units an acre can be built. The draft development code proposes that an additional approval must be obtained to build a detached unit. Mobile home parks are allowed within the City's residential designation. Historically, parcels developed in Lodi are 20 acres or less. The City's requirement for two covered parking spaces is for single-family detached. Parking standards are less for multi-family units. The implementation program encourages more efficient development via higher density. Lower densities pay a fee, which goes toward agricultural mitigation. The General Plan contemplates 65% of housing to be low density, 10% to be medium density, and 25% high density.

In answer to questions posed by Council Member Hitchcock, Mr. Goldman reported that average household size refers to the average number of people in all households. The average family size refers to the average number of people in family households, i.e. two or more related people. Mr. Bartlam stated that the household number is used due to the requirement of the growth management ordinance. Parks goals are implemented through the Parks & Recreation Master Plan (dictates size, location, and type) and the City's impact fee program, which assesses the amount of fee depending upon the type of development.

#### Hearing Opened to the Public

- John Donovan spoke in favor of a fee structure that provides incentives for affordable high-density housing and protects agricultural land.
- Ann Cerney stated that she was speaking on her own behalf, as well as Citizens for Open Government. She objected to the certification of the EIR on the grounds that it does not conform to the mandates set forth in the California Environmental Quality Act (CEQA) and sections 21000, 20001, 20002, and 20003 of the Public Resources Code, which directs that each lead agency or public entity maintain specific policies under CEQA including the following requirements:
  - To maintain a quality of environment for the people of California;
  - To provide an environmental health standard and pleasing environment;
  - That the agency understand the relationship between a high quality of environment and the general welfare of the people of California;
  - That the agency identify critical thresholds for health and safety of the people of California;



- That the agency in its regulations of activities give major consideration to the prevention of environmental damage while at the same time providing a decent home and satisfactory living environment for every Californian; and
- That the agency ensure long-term protection of the environment consistent with provision of home and suitable living environment for every Californian.

Ms. Cerney added that the guiding criterion should be that all public decisions should require governmental agencies at all levels to consider qualitative factors as well as economic and technical factors. Further, agencies should consider long-term benefit and costs in addition to the short-term benefits and costs, as well as alternatives to the proposed actions affecting the environment. Ms. Cerney stated that CEQA includes a substantive mandate that public agencies are to refrain from making decisions with significant environmental effects if there are feasible alternatives or mitigating alternatives to the measure that can substantially lessen or avoid those effects. She pointed out that on the issue of affordable housing there is only one substantive address, which is the possible loss by conversion of the 40-unit Creekside South Apartments from moving Section 8 housing to private ownership. Ms. Cerney alleged that if the faulty EIR is certified, it would give a message that the General Plan EIR may be equally flawed. She believed that if the EIR is adopted in its present form it could lead to serious litigation.

Mr. Bartlam commented that staff has already begun the process of attempting to extend the restrictions on the Creekside Apartment rental units. A meeting has taken place with the Housing Authority and a non-profit in Stockton who has interest in acquiring the project and would put the units in affordability in perpetuity.

Ms. Cerney clarified that she was asking the City to think in terms of preparing the EIR and Housing Element in a way which was more visionary.

- John Donovan asked how progress would be made that is outlined in the Housing Element.

Mr. Bartlam explained that each one of the implementation programs that is listed in the housing strategy has a timeframe for completion. A variety of actions will come back to Council for adoption. There are 31 different programs outlined for implementation.

#### Public Portion of Hearing Closed

#### MOTION / VOTE:

The City Council, on motion of Mayor Pro Tempore Beckman, Hansen second, unanimously adopted the following resolutions:

- Resolution No. 2004-223 certifying the Final Program Environmental Impact Report (EIR 03-03) for the 2003-09 Housing Element; and
- Resolution No. 2004-224 adopting the 2003-09 Housing Element.

#### VOTE TO CONTINUE WITH THE REMAINDER OF THE MEETING

The City Council, on motion of Mayor Hansen, Beckman second, unanimously voted to continue with the remainder of the meeting following the 11:00 p.m. hour, with the exception of Item I-2, which will be continued to the regular meeting of November 3, 2004.

#### H. COMMUNICATIONS

H-1 Claims filed against the City of Lodi – None

H-2 Reports: Boards/Commissions/Task Forces/Committees – None

H-3 The following postings/appointments were made:

- a) The City Council, on motion of Council Member Hitchcock, Beckman second, unanimously appointed Council Member Larry Hansen to serve on the San Joaquin Council of Governments' Regional Transportation Impact Fee Policy Committee for an unspecified term.
- b) The City Council, on motion of Mayor Hansen, Land second, unanimously directed the City Clerk to post for the following vacancy:  
Senior Citizens Commission  
Jerry Loberg Term to expire December 31, 2006

H-4 Miscellaneous

- a) City Clerk Blackston presented the cumulative Monthly Protocol Account Report through September 30, 2004.
- b) City Clerk Blackston presented for informational purposes the communication received from the Secretary of State's Office confirming the correct date of incorporation for the City of Lodi as December 6, 1906, the date that the incorporation papers were filed by the Secretary of State's office.

I. REGULAR CALENDAR

I-1 "Consider options regarding the reopening and operation of Lodi Skate Park and take appropriate action"

Interim City Manager Keeter noted that Council received a "blue sheet" regarding skate park insurance (filed).

Parks & Recreation Director Goehring recalled that a Shirtsleeve Session was held on September 28 to provide Council with an update on the Lodi Skate Park. At that time, the City's Risk Manager had been attempting to secure insurance that would cover losses up to \$500,000 of the City's self-insured retention. He outlined the following options:

- Do nothing until a secondary or gap liability insurance policy is provided;
- Close, dismantle, sell the skate park equipment and convert the existing pad to another use;
- Reopen the skate park with the City assuming 100% of the \$500,000 self-insured retention risk under the California Joint Powers Risk Management Authority policy;
- Reopen the park with the City assuming 100% of the \$500,000 self-insured retention risk until a secondary or gap policy is put into place; or
- Contract with an independent firm, business, or agency to operate, maintain, and manage the skate park as was done previously.

Mr. Goehring reported that an inspection of the skate park equipment was performed on October 6 by Hal Higgins, a manufacturer's representative for Game Time Play Equipment. Mr. Higgins felt that there were several items that needed to be addressed before allowing any activity at the facility, such as replacing bolts and panels that are cracked or broken. Mr. Goehring expressed concern regarding the operation and maintenance costs of the skate park and noted that funding is not included in the 2004-05 budget.

Kirk Evans, Risk Manager, reported that the insurance premium is \$6,000 a year. The policy provides \$1 million general liability coverage and in aggregate \$2 million if there were more than one incidence. There is a \$500 per occurrence deductible and it does not require park supervision or waivers.

Council Member Land asked Mr. Evans to check the background of the insurance broker to confirm there have been no complaints filed.

PUBLIC COMMENTS:

- Dyrice Ramirez spoke in support of skateboarding and parks. He provided Council with statistical information (filed), which he reviewed. He emphasized that parent participation is key for the success of any skate park and noted that skating magazines have promoted antisocial behavior and street skating.
- Brad VanderHamm reported that the 180 Teen Center has a skate park, at which approximately 30 youth use each day. He expressed concern regarding opening the Lodi Skate Park and not providing supervision or requiring waivers. He suggested that staff from the Teen Center may be able to provide some supervision of the park.

Council Member Hitchcock noted that the staff report indicated that direction was given by the Council at the September 24 Shirtsleeve Session. She pointed out that direction was not given, as it was an informational meeting, at which no action can be taken.

MOTION/ VOTE:

The City Council, on motion of Council Member Land, Beckman second, unanimously directed staff to reopen the skate park on the condition that: 1) an insurance policy be purchased; 2) an investigation be done on the broker of record through the State Insurance Commissioner; 3) all necessary signs are posted at the skate park; and 4) staff returns to Council for approval of repair and maintenance costs of the equipment at the skate park, if over \$5,000.

- I-2 "Adopt resolution approving Impact Mitigation Fee Program Annual Report for Fiscal Year 2003-04" was ***pulled from the agenda and continued to the regular meeting of November 3, 2004.***

- I-3 "Approve expenses incurred by outside counsel/consultants relative to the Environmental Abatement Program litigation (\$537,239.23)"

City Attorney Schwabauer reported that a total of \$1.21 million has been spent on attorneys' fees and moving costs through the month of August, including expenses requested under this item. In addition, the City has expended \$254,265 in technical expenses, and during the period of January through August it has expended \$88,989 for the services of JAMS (mediator Lester Levy) and the technical consultant. He stated that the City is spending approximately \$194,000 a month and noted that the Lodi News-Sentinel incorrectly reported the figure at \$430,000. He pointed out, however, that since the services of Folger Levin and Kahn have been provided the City is spending \$250,000 a month. Mr. Schwabauer reviewed invoices listed on "blue sheet" documents (filed).

MOTION / VOTE:

The City Council, on motion of Mayor Hansen, Beckman second, unanimously approved the expenses in the amount of \$526,246.23 (includes a \$10,993.00 reduction from the original amount) incurred by outside counsel/consultants relative to the Environmental Abatement Program litigation.

- I-4 "Approve Special Allocation for expenses incurred for general counsel work previously approved at the October 6, 2004, Council Meeting"

City Attorney Schwabauer explained that at the October 6 Council meeting expenses in the amount of \$111,930.69 were approved for services provided by Kronick, Moskowitz, Tiedemann & Girard. Subsequently, it was realized that invoices totaling \$64,325.74 were for work not related to the Environmental Abatement Program litigation and that a special allocation for this amount would be needed.

MOTION / VOTE:

The City Council, on motion of Council Member Hitchcock, Hansen second, unanimously approved a Special Allocation in the amount of \$64,325.74 for expenses incurred for general counsel work previously approved at the October 6, 2004, Council Meeting.

J. ORDINANCES

- J-1 Following reading of the title of Ordinance No. 1753 entitled, "An Ordinance of the City Council of the City of Lodi Amending Title 12, 'Streets, Sidewalks, and Public Places,' of the Lodi Municipal Code by adding Chapter 12.07 Relating to Establishing the Lodi Tourism Business Improvement District (LTBID)," having been introduced at a regular meeting of the Lodi City Council held October 6, 2004, the City Council, on motion of Mayor Pro Tempore Beckman, Hansen second, waived reading of the ordinance in full and adopted and ordered it to print by the following vote:

Ayes: Council Members – Beckman, Hitchcock, Howard, Land, and Mayor Hansen

Noes: Council Members – None

Absent: Council Members – None

Abstain: Council Members – None

K. COMMENTS BY CITY COUNCIL MEMBERS ON NON-AGENDA ITEMS

- Council Member Hitchcock reported that a subcommittee of the Greenbelt Task Force, consisting of herself, Community Development Director Bartlam, Bruce Fry, and one other individual, will be considering what a greenbelt should look like, pinpointing geographical areas, and exploring funding sources. She noted that a flier has been circulated regarding Measure R that appears to be supported by the Greenbelt Task Force; however, it is in error because the Task Force had not taken a position on the matter.
- Council Member Land commented that for four years James Baum has been complaining about garbage trucks leaking oil on City streets and felt that something should be done to resolve the issue.

Council Member Hitchcock pointed out that depreciation and replacement of vehicles is built into the rate structure and if the City does not demand it as part of its contract, the new vehicles will go to another city that does.

City Attorney Schwabauer reported that the City of Lodi is named as a party to litigation that Mr. Baum has initiated against the garbage company.

Council Member Land and Mayor Hansen requested that the City Attorney, Interim City Manager, and Public Works staff review the situation and return to Council with a recommendation.

- Mayor Hansen commented that there are many misleading brochures being circulated regarding Measure R.

L. COMMENTS BY THE CITY MANAGER ON NON-AGENDA ITEMS

- Interim City Manager Keeter noted that City Council meetings can now be viewed over the Internet on the City's website.

M. ADJOURNMENT

There being no further business to come before the City Council, the meeting was adjourned at 12:25 a.m., Thursday, October 21, 2004.

ATTEST:

Susan J. Blackston  
City Clerk